



Bordelon: Progress Significant During Tenure

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Rod Bordelon has had both champions and detractors during his tenure as Texas' workers' compensation commissioner, but when he retires on Aug. 1, he'll do so with a great deal of pride in what the division has accomplished in the past six years.

The division's figures show that costs are significantly lower, claims are down and insurance premiums have been cut by more than half. And those are just some of the metrics Bordelon points to proudly as evidence of progress, even as the fairness of Texas' system continues to come under fire from claimants' attorneys who believe employers and insurance companies have a sizable advantage.

"We have more policies being purchased, we have more employees covered," Bordelon said in an interview Friday. "We have over 81% of all the employees in the state (who) are now covered by workers' compensation, and that's an all-time high.

"And we have greater participation by other participants. We have more doctors treating workers' comp patients today than ever before, and I think that's as a result of many of the reforms that we've put in place. There's a greater certainty today about how you're gonna get paid and when you're gonna get paid, and so we have more doctors willing to treat patients."

The reforms credited with much of the progress the state has made came with the passage of House Bill 7 in 2005, which created the Division of Workers' Compensation itself. In 2008, Gov. Rick Perry appointed Bordelon as the division's second commissioner, replacing Albert Betts.

"It was in pretty good shape," Bordelon said of his perception of the division when he took over. "The division was still in the throes of reorganization and implementation of the reforms that the Legislature had put in place over the last several years, and there was good work that had already been done. But there was still a lot of work to be done, and that was one of the challenges that I was looking forward to when I stepped in."

House Bill 7 had implemented such reforms as authorization of the use of evidence-based treatment guidelines and the adoption of a closed pharmacy formulary for prescription medications. Last April, Bordelon presented the statistics trumpeting the system's significant improvement in the system to the House Business and Industry Committee.

Bordelon told the committee that injury rates are down 27% since 2004. Claims have fallen 22% since that same year. Requests for benefit review conferences, the initial step in dispute resolution, have also gone down, although statistics showed an increase in the number of disputed issues within benefit review conferences and contested case hearings in recent years.

Workers' compensation insurance rates fell 50% from 2003 to 2011, and the percentage of employers who don't subscribe to Texas' voluntary workers' compensation system fell from 38% in 2004 to 33% in 2012.

Citing some of the same positive trends on Friday, Bordelon said, "All these measures are across the board, and they're positive, and... they positively impact every participant in the system. We're very proud."

After word of Bordelon's retirement broke about two weeks ago, some claimant attorneys weren't so positive. Mike Doyle of the firm Doyle Raizner told WorkCompCentral at that time that Bordelon hadn't offered "much effective assistance to level the playing field" during the past several years "as things got worse and worse for injured Texas workers."

San Antonio attorney John Davis said that it had gotten "progressively more difficult for injured workers to get a hearing and prove their claims."

Bordelon said Friday he's heard the concerns from claimant attorneys that the system isn't fair for injured workers, and that the division continues to examine the system to see "how it's faring for all those concerns."

"I will tell you this: One thing that gets lost in the process... is the fact that disputes themselves are way down," he said. "So again, the number of cases, the number of individual claimants that are coming up to dispute their claim, has continued to drop."

What that tells Bordelon, he said, is that more disputes are being handled informally today than in the past.

"The vast majority of claims, well over 93% of claims, are handled without any dispute proceeding. And that is a significant increase over just a few years ago."

"The intent and design of administrative process is not just to hold a hearing. It's actually to ensure that the injured employees get what they deserve, timely and efficiently, and without the need, frankly, to dispute it."

Controversy swamped Bordelon's tenure in 2010, when several former employees of the division accused him of improperly dismissing pending cases against doctors that were ready to proceed to the enforcement level. Bordelon claimed he dismissed the cases because the division hadn't followed proper procedure in selecting them for review, which could have led to problems with due process. Bordelon told the Business and Industry Committee that year that the division was overhauling its medical quality review process.

The commissioner said Friday that he thought the division handled that controversy exactly the way it should have. He said the division had a significant problem at the time with not moving enforcement cases against doctors, which had been a problem since the division was granted the authority to take such cases.

"These are very technical, very difficult cases to prove against a treating doctor for inappropriate care, excessive care and the like," he said. "And we built a process within the division to ensure that that would result in a successful case, and prior to my coming in and reforming that effort, which is what garnered all the attention and criticism, there had been no successful cases against treating doctors in the system. Zero. None."

Bordelon said that since then, there had been “well over 50 or 60” successful prosecutions against treating doctors in the system, and around 13 or 14 of those doctors had been barred completely from treating workers’ compensation patients.

“So I’m very pleased with what has come out of that,” he said. “I think we have the best system for how to attack these issues in workers’ compensation. I’m not sure there’s too many jurisdictions, if any, that take the same type of enforcement cases in workers’ comp as we do here in Texas.”

Asked what the biggest issues would be that await his successor, Bordelon said he would leave that to whoever is chosen to replace him.

“I would never rest on our laurels and say the system is perfect; it is certainly not,” he said.

“It certainly can be improved. I think there’s always greater efficiencies in the system, and I think we ought to continue to look at the dispute resolution process to ensure that all the parties are, in fact, having every opportunity to bring forth the evidence that we need.”

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